

CITY OF ENGLEWOOD

**NOTICE OF APPROVAL
OF A BILL FOR AN ORDINANCE**

On the 21st day of May 2018, the City Council of the City of Englewood, Colorado, approved on first reading the following Council Bill:

**BY AUTHORITY
COUNCIL BILL NO. 12
INTRODUCED BY
COUNCIL MEMBER OLSON**

A BILL FOR AN ORDINANCE
AMENDING TITLE 5, CHAPTER 3A,
SECTION 9, OF THE ENGLEWOOD
MUNICIPAL CODE 2000 PERTAINING
TO SPECIAL EVENT AND ALCOHOL
TASTING PERMITS, INCLUDING
AUTHORIZATION OF ALCOHOL
BEVERAGE TASTINGS, AND
LICENSURE THEREOF, AND
AMENDING TITLE 5, CHAPTER 3B,
SECTION 8, REGARDING
APPLICABLE FEES, ALL WITHIN THE
CITY OF ENGLEWOOD, COLORADO.

Copies of the aforesaid council bill are available for public inspection in the office of the City Clerk, City of Englewood, Civic Center, 1000 Englewood Parkway, Englewood, Colorado 80110 or it can be found at <http://www.englewoodco.gov>, Government, Legal/Public Notices.

Published: May 23, 2018
Official Website of the
City of Englewood, Colorado

BY AUTHORITY

ORDINANCE NO. _____
SERIES OF 2018

COUNCIL BILL NO. 12
INTRODUCED BY COUNCIL
MEMBER _____

A BILL FOR

AN ORDINANCE AMENDING TITLE 5, CHAPTER 3A, SECTION 9, OF THE ENGLEWOOD MUNICIPAL CODE 2000 PERTAINING TO SPECIAL EVENT AND ALCOHOL TASTING PERMITS, INCLUDING AUTHORIZATION OF ALCOHOL BEVERAGE TASTINGS, AND LICENSURE THEREOF, AND AMENDING TITLE 5, CHAPTER 3B, SECTION 8, REGARDING APPLICABLE FEES, ALL WITHIN THE CITY OF ENGLEWOOD, COLORADO.

WHEREAS, the Colorado General Assembly, through C.R.S. 12-47-301(10), allows licensees of retail liquor stores or liquor-licensed drugstores to conduct alcohol beverage tastings on the premises; and

WHEREAS, the Colorado General Assembly, through C.R.S. 12-47-301(10), allows the City Council to authorize by ordinance alcohol beverage tastings within the City in conformance with that statute.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ENGLEWOOD, COLORADO, AS FOLLOWS:

Section 1. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 5, Chapter 3A, Section 9 of the Englewood Municipal Code 2000 as follows:

5-3A-9: Special Event and Alcohol Tasting Permits for Consumption of Beverages containing Alcohol or Liquor.

A. Special Event Permits for the consumption of beverages containing alcohol or liquor are hereby authorized within the City in accordance with C.R.S.12-48-101, et seq.

1. The authority may grant to an applicant a special event permit in accordance with the Colorado Liquor Code and subject to the limitations as set forth in C.R.S.12-48-101, et seq. as the same may be amended from time to time.
2. A special event permit under this Section is a permit for the sale, by the drink only, of fermented malt beverages, as defined in C.R.S. 12-46-103, or the sale, by the drink only, of malt, spirituous, or vinous liquors, as defined in C.R.S. 12-47-103, to organizations and political candidates qualifying under C.R.S. 12-48-102, subject to the applicable provisions of and limitations imposed by State law.

B. Alcohol Tastings for the sampling of beverages containing alcohol or liquor are hereby authorized within the City in accordance with C.R.S. 12-47-301(10).

1. The authority may grant to a holder of a City of Englewood retail liquor license or liquor-licensed drug-store (licensee) an Alcohol Beverage Tastings Permit in accordance with the provisions of this Chapter and subject to the limitations as set forth in C.R.S. 12-47-301(10), as the same may be amended from time to time.

2. Terms applicable to tasting events for beverages containing alcohol or liquor as set forth in C.R.S. 12-47-301(10) include, but are not limited to:

a. Tasting of a beverage containing alcohol or liquor is the sampling of malt, vinous, or spirituous liquors that may occur on the premises of a retail liquor store or liquor-licensed drugstore by patrons 21 years of age older pursuant to the terms of a permit authorized in accordance with the provisions of C.R.S. 12-47-301(10).

b. The size of an individual alcohol sample provided at a tasting shall not exceed one ounce of malt or vinous liquor or one-half of one ounce of spirituous liquor.

c. Tastings shall not exceed a total of five hours in duration per day, which need not be consecutive.

d. Tastings shall be conducted only during the operating hours in which the licensee on whose premises the tastings occur is permitted to sell beverages containing alcohol or liquor and in no case earlier than 11 a.m. or later than 7 p.m.

e. The licensee shall not serve more than four individual samples to a patron during a tasting.

f. Samples of beverages containing alcohol or liquor shall be in open containers and shall be provided to a patron free of charge.

Section 2. The City Council of the City of Englewood, Colorado hereby authorizes amending Title 5, Chapter 3B, Section 8 of the Englewood Municipal Code 2000 as follows:

5-3B-8: Special Events and Alcohol Tasting Permit Fees shall be set by City Council Resolution and shall be in addition to any fees imposed by the State.

Section 3. General provisions applicable to interpretation and application of this Ordinance:

Applicability of Title 1, Chapter 2, Saving Clause. The provisions of Title 1, Chapter 2, Saving Clause apply to interpretation and application of this Ordinance, unless otherwise set forth in Section 1 above, including, but not limited to, the provisions regarding severability, inconsistent ordinances or code provisions, effect of repeal or modification, and legislation not affected by repeal.

Enforcement. The provisions of Title 1, Chapter 42, General Penalty mandate that except as otherwise provided within specific Titles, Chapters, or Sections of the Englewood Municipal Code, the violation of any provisions of the Code or of any secondary code adopted therein shall be punished by a fine not exceeding two thousand six hundred and fifty dollars (\$2,650.00) or imprisonment for a term not exceeding three hundred sixty (360) days or by both such fine and imprisonment.

Safety Clauses. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Englewood, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Introduced, read in full, and passed on first reading on the 21st day of May, 2018.

Published by Title as a Bill for an Ordinance in the City's official newspaper on the 23rd day of May, 2018.

Published as a Bill for an Ordinance on the City's official website beginning on the 22nd day of May, 2018.

Rita Russell, Mayor Pro Tem

ATTEST:

Stephanie Carlile, City Clerk

I, Stephanie Carlile, City Clerk of the City of Englewood, Colorado, hereby certify that the above and foregoing is a true copy of a Bill for an Ordinance introduced, read in full, and passed on first reading on the 21st day of May, 2018.

Stephanie Carlile



ALCOHOL BEVERAGE TASTING GENERAL INFORMATION

City of Englewood Retail Liquor Stores

At all times, including during tastings, state statutes and local ordinances governing Retail Liquor Stores apply. The reader is strongly advised to read and become familiar with the requirements and restrictions contained in Section 12-47-301(10), C.R.S

- ❖ An Alcohol Beverage Tastings Permit is valid only for the period of the existing liquor license.
- ❖ An Alcohol Beverage Tastings Permit application must be submitted to the City at least 30 days prior to the first event. To avoid delay in the approval of the yearly permit, applicants must provide complete information as requested on the application form.
- ❖ The licensee may amend an approved tastings schedule by delivering to the Office of the City Clerk a Notice of Amendment at least 48 hours prior to the unscheduled event.
- ❖ Only persons who have completed state-approved server training may conduct or participate in tastings events. Certificates of Training must be filed with the City Clerk prior to the event.
- ❖ A valid Alcohol Beverage Tastings Permit must be posted prominently on the licensed premises during all tasting events.
- ❖ The alcohol used in a tasting shall be purchased through a licensed wholesaler, licensed brewpub, or licensed winery.
- ❖ The size of the individual samples shall not exceed one ounce of malt or vinous liquor or one-half ounce of spirituous liquor. The licensee shall not serve more than four individual samples to a patron during a Tasting.
- ❖ Tastings shall not exceed a total of five hours in duration per day, which hours need not be consecutive, and shall be conducted only during the operation hours in which the licensee on whose premises the tastings occur is permitted to sell alcoholic beverages, and in no case earlier than 11 a.m. or later than 7 p.m.
- ❖ Tastings may occur on no more than four of the six days from a Monday to the following Saturday, not to exceed one hundred four days per year.
- ❖ The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed alcohol sample.
- ❖ The licensee shall not serve a person who is under twenty-one years of age or who is visibly intoxicated.

- ❖ The licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises or shall destroy the samples immediately following the completion of the Alcohol Beverage Tasting.
- ❖ Alcohol samples shall be in open containers and shall be provided to a patron free of charge.
- ❖ No manufacturer of spirituous or vinous liquors shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a tasting. The licensee shall bear the financial and all other responsibility for a tasting.
- ❖ A retail liquor store or liquor licensee conducting a tasting shall be subject to the same revocation, suspension, and enforcement provisions as otherwise apply to the licensee.
- ❖

Proposed Rate Change Information for Council 2-5-2018 Regular Council Meeting

Rate Name: Tastings Permit

Description: Retail Liquor Tastings Permit Fee

What: Application Fee

Impacted parties: Retail Liquor Stores

Rate Changes:

Proposed	Current	Prior
Proposed 2/1/2018 Change:	Rate Installed:	Rate Installed:
\$100.00		
Reason for rate change:	Reason for rate change:	Reason for rate change:
New Tasting License		

How the current proposed rate was determined:

Average staff salary including benefits = \$ 97.00 per hour.

Cost of License and Supplies = \$3.00

Fees from comparable cities:

Wheat Ridge: \$100.00

Centennial: \$50.00

Hayden: \$125.00

Idaho Springs: \$100.00

Denver: \$100.00

Castle Rock: \$200.00

Aurora: \$133.00

Lone Tree: \$50.00

Cost Recovery %: 100

Estimated Revenue from the rate/fee increase: 15 Licensed Liquor Stores = \$1500.00

C.R.S. 12-47-301

(10) (a) The provisions of this subsection (10) shall only apply within a county, city and county, or municipality if the governing body of the county, city and county, or municipality adopts an ordinance or resolution authorizing tastings pursuant to this subsection (10). The ordinance or resolution may provide for stricter limits than this subsection (10) on the number of tastings per year per licensee, the days on which tastings may occur, or the number of hours each tasting may last.

- **(b)** A retail liquor store or liquor-licensed drugstore licensee who wishes to conduct tastings may submit an application or application renewal to the local licensing authority. The local licensing authority may reject the application if the applicant fails to establish that he or she is able to conduct tastings without violating the provisions of this section or creating a public safety risk to the neighborhood. A local licensing authority may establish its own application procedure and may charge a reasonable application fee.
- **(c)** Tastings are subject to the following limitations:
 - **(I)** Tastings shall be conducted only by a person who has completed a server training program that meets the standards established by the liquor enforcement division in the department of revenue and who is either a retail liquor store licensee or a liquor-licensed drugstore licensee, or an employee of a licensee, and only on a licensee's licensed premises.
 - **(II)** The alcohol beverage used in tastings must be purchased through a licensed wholesaler, licensed brew pub, licensed distillery pub, or winery licensed pursuant to section 12-47-403 at a cost that is not less than the laid-in cost of the alcohol beverage.
 - **(III)** The size of an individual alcohol sample shall not exceed one ounce of malt or vinous liquor or one-half of one ounce of spirituous liquor.
 - **(IV)** Tastings shall not exceed a total of five hours in duration per day, which need not be consecutive.
 - **(V)** Tastings shall be conducted only during the operating hours in which the licensee on whose premises the tastings occur is permitted to sell alcohol beverages, and in no case earlier than 11 a.m. or later than 7 p.m.
 - **(VI)** The licensee shall prohibit patrons from leaving the licensed premises with an unconsumed sample.
 - **(VII)** The licensee shall promptly remove all open and unconsumed alcohol beverage samples from the licensed premises or shall destroy the samples immediately following the completion of the tasting.
 - **(VIII)** The licensee shall not serve a person who is under twenty-one years of age or who is visibly intoxicated.
 - **(IX)** The licensee shall not serve more than four individual samples to a patron during a tasting.
 - **(X)** Alcohol samples shall be in open containers and shall be provided to a patron free of charge.
 - **(XI)** Tastings may occur on no more than four of the six days from a Monday to the following Saturday, not to exceed one hundred four days per year.
 - **(XII)** No manufacturer of spirituous or vinous liquors shall induce a licensee through free goods or financial or in-kind assistance to favor the manufacturer's products being sampled at a tasting. The licensee shall bear the financial and all other responsibility for a tasting.
- **(d)** A violation of a limitation specified in this subsection (10) or of section 12-47-801 by a retail liquor store or liquor-licensed drugstore licensee, whether by his or her employees, agents, or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the tasting.
- **(e)** A retail liquor store or liquor-licensed drugstore licensee conducting a tasting shall be subject to the same revocation, suspension, and enforcement provisions as otherwise apply to the licensee.
- **(f)** Nothing in this subsection (10) shall affect the ability of a Colorado winery licensed pursuant to section 12-47-402 or 12-47-403 to conduct a tasting pursuant to the authority of section 12-47-402 (2) or 12-47-403 (2)(e).

Dear Counsel,

Hello! My name is Gene Martinez. I am the General Manager here at Kent Cellars Fine Wine & Spirits. When I took over the store in March of 2014 one of the things on my to do list was to establish public tastings for our wonderful and loyal customers! I was disappointed to find out that our liquor license did not allow us to do so. Since then I've been in close contact with the city clerks office (Jackie) trying to see what we can do to allow us to do so. In the last year or so it was sounding like finally this was something that the city was going to jump on board with. I understand that there may be some concerns about having under age or transients possibly taking advantage of our public tastings. However, I assure you that we would abide by the guidelines and laws that go along with our liquor license by educating my entire staff through TIPS training. I have worked in retail stores in the past that have been able to do public tastings. Incredible Wine and Spirits in Centennial and The Boulder Wine Merchant in Boulder. Both of these businesses abide by the regulations and laws under their liquor licenses.

We are a very small store and a big concern that we have is having larger chain stores (grocery stores) being able to start selling full strength beer in 2019. Competing with them on pricing will be very difficult. Being able to do public tastings will benefit us by being able to interact more with our customers, educating customers on local beer, wine and spirit producers, creating a communal environment, increasing sales, and leveling out any loss that may occur to larger stores beating us out on pricing.

I hope that the City of Englewood will see the positives in allowing businesses to conduct in store public tastings and that we do understand the consequences of going outside of the laws and regulations of our liquor license.

If you have any concerns or questions, I encourage you to please reach out to me.

Sincerely,
Gene Martinez
General Manager
Kent Cellars Fine Wine & Spirits
Kentcellars@gmail.com
303.789.7426

Off Broadway



04/23/2018

To Whom It May Concern:

We request that the City Council please consider approving tasting permits in Englewood. We have been operating in the City of Englewood since 2011. Since then, we have grown our business by offering a wider and higher-end selection.

We believe that allowing us to taste our customers on 2 specified days a week would provide a great service to our shoppers, as well as allow us to increase our sales. Currently, we are at a disadvantage to our competitors in neighboring cities that have tasting permits. Allowing us to host tastings would increase sales for us and increase sales tax revenue for the city.

In the last couple years, we have seen our customers become more discerning. They would enjoy having a small 4 oz sample of a new product to taste before purchasing. Tastings will be geared towards customers with an interest in finer wines and spirits.

As such, our intention is to taste only higher end products to our discerning customers on a very controlled basis. We understand that there is a liability involved with having open liquor containers and would take this added responsibility very seriously. During our past 7 years operating, we believe that we have proven to be a responsible and professional establishment.

We ask that the Council support our business and help set us up for added success. Please do not hesitate to contact us with any specific questions.

Sincerely,

Imtiaz Malik & Gilda Zaragoza

TO:	Mayor and Council
FROM:	Jackie McKinnon
DEPARTMENT:	City Clerk's Office
DATE:	May 7, 2018
SUBJECT:	Retail Liquor Tasting Permit

DESCRIPTION:

Retail Liquor Tasting Permit

RECOMMENDATION:

Staff is seeking direction from Council regarding an Ordinance to allow Tastings for Retail Liquor Stores in the City of Englewood.

Tastings are a sampling of malt, vinous, or spirituous liquors that may occur on the premises of a retail liquor store licensee or liquor-license drugstore licensee by adult patrons of the licensee pursuant to the provisions of section 12-47-301(10), C.R.S.

SUMMARY:

The discussion of the proposed liquor tasting permit ordinance yielded several questions at the April 16, 2018 meeting and ultimately led to the item being tabled to a study session. The main questions that were picked up at the meeting were the following (bold):

Why is this coming forward?

The City Clerk's Office has received inquiries from Retail Liquor establishments in the City. We have attached 2 letters we have received expressing interest in allowing Tastings.

Have the liquor stores requested this?

Yes, at least 4 current establishments have expressed interest during the Renewal process.

What other entities in Colorado permit tasting through a similar permit process?

- Cherry Hills Village
- Wheat Ridge
- Lone Tree
- Centennial
- Littleton
- Sheridan
- Lakewood
- Arvada
- Denver

How will the liquor stores ensure that they are not adding to the delinquency of those who are predisposed to alcoholism?

According to State Statute C.R.S. 12-47-301-(10);

- (d) A violation of a limitation specified in this subsection (10) or of section 12-47-801 by a retail liquor store or liquor-licensed drugstore licensee, whether by his or her employees, agents, or otherwise, shall be the responsibility of the retail liquor store or liquor-licensed drugstore licensee who is conducting the tasting.
- (e) A retail liquor store or liquor-licensed drugstore licensee conducting a tasting shall be subject to the same revocation, suspension, and enforcement provisions as otherwise apply to the licensee.

How will the City monitor the tasting days to ensure alignment with the law?

A retail liquor store or liquor-licensed drugstore licensee conducting a tasting shall be subject to the same revocation, suspension, and enforcement provisions as otherwise apply to the licensee.

Does the City currently monitor the liquor stores for proper sales to of-age individuals?

There is investigation and enforcement at the State and Local level.

Concern with the permit and homeless.

Tastings are not geared toward the homeless. Public tastings will benefit the Retail Liquor Store by being able to interact more with their customers, educating customers on local beer, wine and spirit producers, creating a communal environment, increasing sales, and leveling out any loss that may occur to larger stores beating them out on pricing.

The packet included language stating, "The size of the individual samples shall not exceed one ounce of malt or vinous liquor or one-half ounce of spirituous liquor. The licensee shall not serve more than four individual samples to a patron during a Tasting."

Using those quantities, a single person could be served up to four ounces of beer, or malt liquor, or wine, or up to two ounces of distilled spirits. According to the chart linked below, 12 oz of beer (5% abv), is equal to a 5oz of wine (12% abv), is equal to a 1.5oz of distilled spirits (40%abv). Using those figures and the max samples allowed, a customer could consume 4 oz of beer, which is 1/3 of an alcohol serving, or 4 oz of wine, which is 4/5 of an alcohol serving, or 2 ounces of distilled spirits which is 1.33 servings of alcohol. Depending on the customer's tolerance, it seems that consuming 1.33 servings of alcohol could impair a person. How were these sample sizes and sample limits reached? There doesn't seem to be parity between the three? The sample sizes and quantities were taken from State Statute 12-47-301, I have listed a few surrounding Cities that allow tastings and follow State Statute.

The sample sizes and quantities were taken from State Statute 12-47-301, I have listed a few surrounding Cities that allow tastings and follow State Statute.

- Cherry Hills Village
- Wheat Ridge
- Lone Tree
- Centennial
- Littleton

- Sheridan
- Lakewood
- Arvada
- Denver

ANALYSIS:

The City Clerk's office has received inquiries from local retail liquor store owners requesting to have tastings at their liquor store. An alcohol beverage Tastings Permit allows a retail liquor store to conduct sample tastings of alcohol beverages within their own establishments. The City Clerk's office has researched surrounding cities policies and ordinances when considering the Tasting Permit.

FINANCIAL IMPLICATIONS:

A licensing and application fee will be charged for a Tasting Permit. Staff is recommending a \$100.00 fee. The cost recovery is 100%. The estimated revenue from the fees based on 15 licensed Liquor Stores in Englewood would generate approximately \$1500.00.

ATTACHMENTS:

State Statue 12-47-301
Kent Cellars Letter
Off Broadway Wind & Spirits Letter
Alcohol Beverage Tasting General Information
Proposed Rate Change Information
Liquor Tasting Permit Application
Tasting Permit Sample